

REMARKS

Claims 1-3 and 6-10 are pending in the present application.

I. FORMAL MATTERS

A. Objection to the Specification

Applicant notes with appreciation that the Office Action indicates that the substitute specification filed on September 7, 2004 is acceptable and the objections to the specification are withdrawn.

B. Information Disclosure Statements

Applicant notes with appreciation that the Office Action includes a copy of the PTO Form 1449 that was submitted with the Information Disclosure Statement filed on September 30, 2004. The references listed therein are initialed by the Examiner, thereby indicating that these references were considered and should be listed on the face of any patent that issues from the present application.

II. PRIOR ART REJECTIONS

A. Claims 1-3 and 6, 7 and 10

Claims 1-3 and 6, 7 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ahmad (U.S. Patent 6,532,022) in view of Parulski (U.S. Patent 5,914,748). This rejection is traversed.

The Examiner asserts that Ahmad discloses an image pickup apparatus for taking a first image including only a background, but not an object, and a second image including an object, and having a shutter button for releasing a shutter. The Examiner admits that Ahmad does not specifically teach that a first image is taken when a first period of time is measured and a second image is taken when a second period of time is measured and relies on Parulski for the alleged teaching of this feature.

Applicant submits that Ahmad does not teach or suggest to take an image as a background/object image after a first predetermined time has elapsed and to take a second image including only an object the after a second predetermined time has elapsed, as recited by claims 1 and 10. Further, Applicant submits that it would not have been obvious to modify Ahmad to take an image a background/object image after a first predetermined time has elapsed and to take a second image including only an object the after a second predetermined time has elapsed because Ahmad teaches away from such a modification.

Ahmad teaches to perform a set number of iterations to create the background image until certain criteria are met before taking the second image

(see Figs. 3A and 3B, col. 6, line 48 – col. 7, line 47). Specifically, Ahmad teaches to use an iterative process to first create a background image by averaging several frames of a background image. After the number of iterations reaches the desired number of iterations N, the system computes the tolerance for each pixel (see boxes 308, 310 and 312 in Fig. 3A) and captures a frame of an input image. When there are no more pixels in the average image, the process captures a frame of an input image containing a background image and the object (see box 314).

Therefore, in Ahmad, once a shutter button has been pressed, a plurality of images for a background are repeatedly input. In the present invention, after a shutter button has been pressed, when a predetermined amount of time elapses, a single image for a background is input. This effectively limits the adverse effects caused by hand movement.

Therefore, Ahmad teaches a completely different procedure than the present invention. Ahmad teaches that the user can select the number of iterations to perform in order to create the background model (see col. 7, lines 8-17). Specifically, Ahmad teaches:

For example, the user may want the system to go through 30 or 100 iterations to build the background model **depending on how much time** the user wants to spend building the model and how accurate the user wants it to be. [Emphasis added.]

Thus, this method of performing a set number of iterations before an image is output, as taught by Ahmad, teaches away from the present invention. Therefore, it would not have been obvious to modify Ahmad with Parulski to take a first image after a first predetermined amount of time and a second image after a second predetermined amount of time (see MPEP § 2145 X.D.2.).

Therefore, because Ahmad teaches away from the combination asserted by the Examiner, such a combination would not be obvious. Thus, the rejection of claims 1-3, 6, 7 and 10 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Further, Ahmad does not teach or suggest to update a first image using an image of a region other than the object region of the second image “every time a prescribed period is elapsed ,” as recited by independent claims 1 and 10. Rather, as presented above, the method of Ahmad updated a set number of iterations, which can be any amount of time.

Parulski fails to make up for the above-noted deficiencies of Ahmad, as presented in the Amendment filed on September 7, 2004.

B. Claims 8 and 9

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmad and Parulski and in further view of U.S. Patent No. 5,267,333 (Aono). This rejection is traversed.

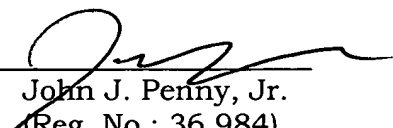
Applicant submits that Aono fails to make up for the above-noted deficiencies of Ahmad and Parulski. Therefore, Applicant submits that the rejection of claims 8 and 9 under 35 U.S.C. 103(a) is overcome.

Based on the foregoing, Applicant submits that the present application is in condition for allowance and allowance is respectfully solicited. If the Examiner believes that any of the outstanding issues could be resolved by a telephone conference, Applicant respectfully requests the Examiner to contact the undersigned at the telephone number listed below.

Applicant believes that no additional fees are due for the subject application. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge Deposit Account No. 04-1105.

Respectfully Submitted,

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